Flanigan Can Talk, White House Agrees

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In an effort to save the nomination of Richard G. Kleindienst as Attorney General, the White House backed down yesterday and agreed that presidential aide Peter M. Flanigan may testify before the Senate Judiciary Committee.

Flanigan sent an early morning letter to committee Chairman James O. Eastland (D-Miss.), saying he "would welcome the opportunity to appear and testify" in the committee's probe of whether the settlement of antitrust cases against the International Telephone and Telegraph Corp. was related to ITT's pledge of at least $200,000 to help bring the Republican Convention to San Diego.

But the economic adviser to President Nixon insisted that "the scope of my appearance" be limited to his role in soliciting an independent financial analysis on the ITT cases and a "group meeting" he attended with ITT President Harold S. Geneen.

Despite that restriction, Flanigan's offer to testify represented an abandoning by the White House of its claim that Flanigan's actions were protected from inquiry by the doctrine of "executive privilege."

Presidential Press Secretary Ronald L. Ziegler said at a White House briefing that Mr. Nixon had never formally invoked that doctrine, although John W. Dean III, counsel to the President, had cited its major precepts in a letter to the committee last week rejecting the initial invitation for Flanigan to testify.

PETER M. FLANIGAN
. . . may testify

The Flanigan agreement was also a victory for Sen. Sam J. Ervin Jr. (D-N.C.), who, along with other influential senators, had threatened to block a vote on the Kleindienst nomination until Flanigan testified.

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Ervin contended that executive privilege, while it covers conversations between presidential aides and the President, does not extend to the contacts between aides and third parties.

In a closed meeting yesterday afternoon, the committee voted 12-to-1 to accept Flanigan's conditions on his appearance. Only Sen. Edward M. Kennedy (D-Mass.) dissented.

The committee sent a message back to Flanigan, however, stressing that it felt that all questions related to the ITT settlement and the convention contribution would be in order.

After a long debate, the senators also agreed not to ask Flanigan any questions relating to his conversations with the President or presidential assistants.

Pending Flanigan's reply to that message, he was tentatively set to testify Thursday, the last currently scheduled day of hearings on the Kleindienst nomination.

In the same executive session yesterday, the committee voted 7-to-6 against testing the White House further by "inviting" presidential aide William Timmons to testify under similar conditions.

Eastland sided with six Republicans on the committee to turn back the request for Timmons, which was proposed by Sen. John V. Tunney (D-Calif.).

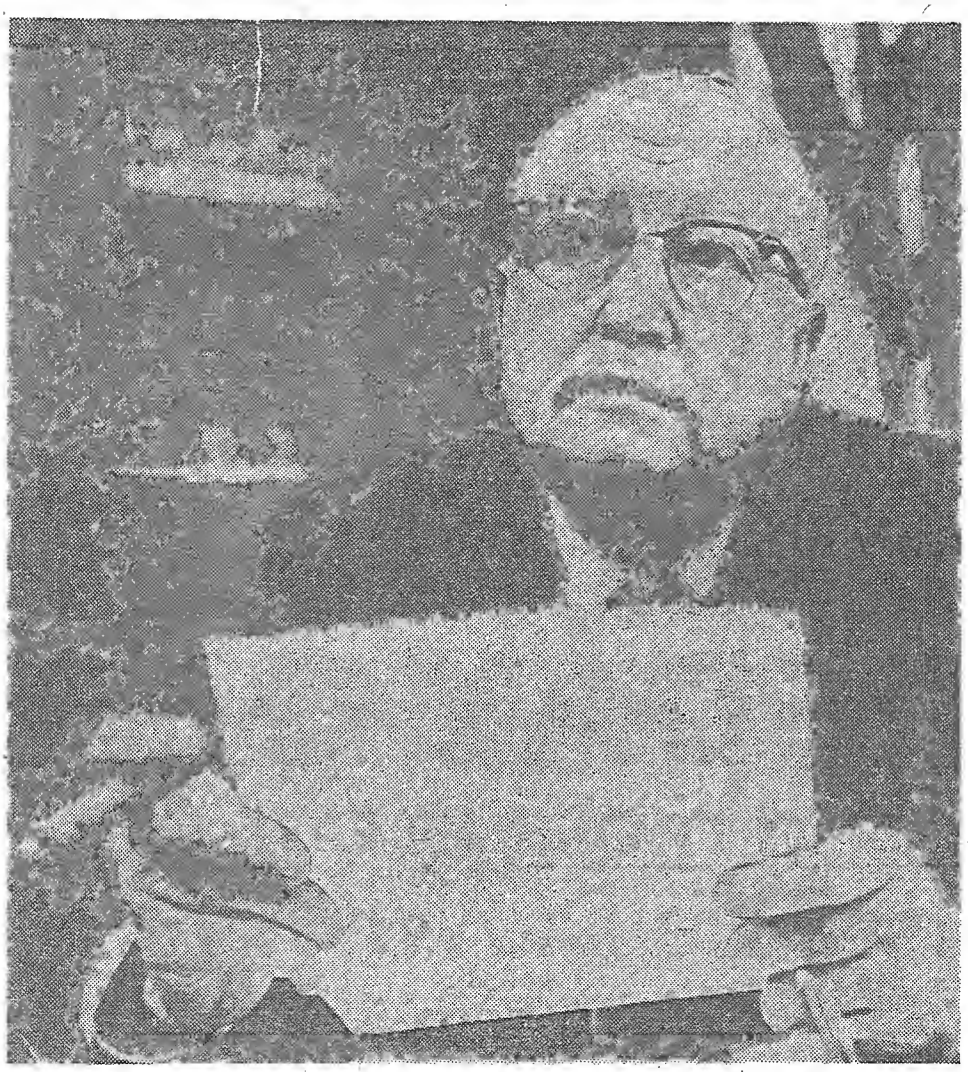
Timmons' name had been mentioned during the hearings in connection with telephone calls between the White House and ITT's Washington office, during which the exact size and nature of ITT's convention committment reportedly was discussed.

Another principal in those phone calls, former White House staffer Jack Gleason—now an outside consultant to ITT—is scheduled to testify before the committee today. Also slated to appear today is California Lt. Gov. Ed Reinecke, who was allegedly active in the early efforts to bring the GOP convention to San Diego with ITT support.

Presidential press secretary Ronald L. Ziegler insisted yesterday that the turnaround on Flanigan's appearance was not prompted by a feeling that Kleindienst might otherwise fail confirmation.

But Sen. Edward J. Gurney (R-Fla.) told reporters that "there was a change of heart because of the nomination itself, which was in jeopardy."

Gurney predicted that the committee would learn little from Flanigan, because "his role was very minimal."



Associated Press

Senate Judiciary Committee Chairman James O. Eastland holds a letter from Peter M. Flanigan in which the presidential aide agreed to appear before panel.

Flanigan's letter indicated that he had been contacted by "several members of the Judiciary Committee" who stressed that the questioning of him would not necessarily be stretched to cover his White House work in general.

Ervin acknowledged yesterday that "I have talked to all the Republicans who would listen to me and have any influence at the White House. I told them it was foolish" to risk Kleindienst's defeat in order to protect a broad interpretation of executive privilege.

"If I were running the White House by myself," Ervin added, "I would send Timmons down here to say, 'I am a righteous man.'"

However, he backed down from his earlier position that it could also be necessary to hear from John Ehrlichman, Mr. Nixon's chief domestic policy adviser, and other presidential assistants who reportedly met privately with ITT officials.

The Washington Post learned yesterday that the White House change of heart resulted in part from intense pressure by Senate Republicans and Justice Department officers who had become pessimistic about Kleindienst's chances.

One Senate source said that former Attorney General John N. Mitchell contributed his advice, in order to rescue Kleindienst, who served him as Deputy Attorney General for three years.

Sources close to the Committee for the Re-election of the President have said that Mitchell has hardly had any time to devote to his new role—as campaign director for Mr. Nixon—because of his preoccupation with the Senate hearings.

In an open session yesterday—the 19th day of the reopened hearings on the Kleindienst nomination — the Judiciary Committee heard U.S. Attorney Harry D. Steward of San Diego defend his conduct in quashing a subpoena of a prominent California Republican during a 1970 investigation of allegedly illegal campaign contributions.

"I felt that my decision was correct then, and I still do now," said Steward, rejecting Assistant Attorney General Henry E. Petersen's testimony last week that he had been guilty of "highly improper" conduct.

Steward acknowledged that Frank Thornton—to whom the subpoena was directed — "is and was a good friend of mine."

Steward insisted that it was not "necessary or proper" to call Thornton before a special grand jury, rather than investigating the campaign contribution through the "normal channels" of the Internal Revenue Service. He said he was concerned about "publicity" in the case and after a private visit to Thornton's office, to inspect his records "saw no need" to subpoena him.